

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 355**

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**Introduced by Senator Beall**

February 20, 2013

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An act to amend ~~Section~~ *Sections 37002, 37005, 37006, 37012, 37013, 37015, 37016, 37021, 37034, 37038, and 37040* of the Public Resources Code, and to amend ~~Section~~ *Sections 17053.30 and 25630 23630* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as amended, Beall. Conservation: tax credits.

The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands.

The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws in the amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural *Heritage* Preservation Tax Credit Act of 2000, as provided.

This bill would *instead require the Natural Resources Agency to implement the Natural Heritage Preservation Tax Credit Act of 2000 and would also* allow for the transfer of the credit allowed pursuant to the Natural *Heritage* Preservation Tax Credit Act of 2000 by the taxpayer to an unrelated party, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 37002 of the Public Resources Code is  
2     amended to read:  
3     37002. As used in this division, the following terms have the  
4     following meanings:  
5     (a) “Agency” means the Natural Resources Agency created  
6     pursuant to Chapter 1 (commencing with Section 12800) of Part  
7     2.5 of Division 3 of the Government Code.  
8     ~~(a)~~  
9     (b) “Approval” or “approval for acceptance” means the ~~board’s~~  
10    agency’s approval of the granting of a tax credit for a donation of  
11    property pursuant to the program.  
12    ~~(b) “Board” means the Wildlife Conservation Board created~~  
13    ~~pursuant to Article 2 (commencing with Section 1320) of Chapter~~  
14    ~~4 of Division 2 of the Fish and Game Code.~~  
15    (c) “Conservation easement” means a conservation easement,  
16    as defined by Section 815.1 of the Civil Code, that is contributed  
17    in perpetuity.  
18    (d) “Department” means any entity created by statute within  
19    the Natural Resources Agency and authorized to hold title to land,  
20    or the Natural Resources Agency.  
21    (e) (1) “Designated nonprofit organization” means a nonprofit  
22    organization qualified under Section 501(c)(3) of Title 26 of the  
23    United States Code that has as a principal purpose the conservation  
24    of land and water resources and that is designated by a local  
25    government or a department to accept property pursuant to this  
26    division in lieu of the local government or a department. In order  
27    to be eligible to receive a donation of property pursuant to this  
28    division, a nonprofit organization shall have experience in land  
29    conservation.  
30    (2) If bond funds are used pursuant to Chapter 7 (commencing  
31    with Section 37030), the designated nonprofit organization shall  
32    also meet the eligibility requirements specified in the relevant  
33    provision of the applicable bond act, for a nonprofit organization.  
34    (f) “Donee” means any of the following:

1 (1) A department to which a donor has applied to donate  
2 property.

3 (2) A local government that has submitted a joint application  
4 with a department requesting approval of a donation of property  
5 to that local government.

6 (3) A local government that has submitted an application directly  
7 to the ~~board~~ agency.

8 (4) A designated nonprofit organization.

9 (g) “Donor” means a property owner that donates, or submits  
10 an application to donate, property pursuant to the program.

11 (h) (1) “Local government” means any city, county, city and  
12 county, or any district, as defined in Section 5902 or in Division  
13 26 (commencing with Section 35100), or any joint powers authority  
14 made up of one or more of those entities or those entities and  
15 departments.

16 (2) If bond funds are used pursuant to Chapter 7 (commencing  
17 with Section 37030), “local government” also includes any other  
18 local governmental entity eligible to receive bond funds pursuant  
19 to the relevant provision of the applicable bond act.

20 (i) “Program” means the Natural Heritage Preservation Tax  
21 Credit Program authorized by this division.

22 (j) “Property” means any real property, and any perpetual  
23 interest therein, including land, conservation easements, and land  
24 containing water rights, as well as water rights.

25 (k) “Secretary” means the Secretary of the Natural Resources  
26 Agency.

27 *SEC. 2. Section 37005 of the Public Resources Code is*  
28 *amended to read:*

29 37005. The ~~Wildlife Conservation Board~~ *Natural Resources*  
30 *Agency* shall implement the program. The ~~board~~ agency may  
31 request staff services from any department that submits an  
32 application and a proposal for a donation of property to the ~~board~~  
33 agency.

34 ~~SECTION 4.~~

35 *SEC. 3. Section 37006 of the Public Resources Code is*  
36 *amended to read:*

37 37006. (a) (1) Under the program, upon approval by the ~~board~~  
38 agency, a donor may contribute qualified property to a donee and  
39 receive a tax credit for a portion of the value of the property, as

1 provided in Sections 17053.30 and 23630 of the Revenue and  
2 Taxation Code.

3 (2) If the ~~board~~ agency approves a transfer of the credit pursuant  
4 to subdivision (f) of Section 17053.30 or *Section 23630 of the*  
5 *Revenue and Taxation Code*, the ~~board~~ agency shall provide a  
6 certificate to the donor evidencing that approval, in a form  
7 satisfactory to the Franchise Tax Board.

8 (b) The ~~board~~ agency shall adopt guidelines or regulations to  
9 implement the program, including procedures for applications  
10 submitted pursuant to Chapter 4 (commencing with Section 37010)  
11 and for the evaluation of properties proposed to be contributed  
12 pursuant to the program. Chapter 3.5 (commencing with Section  
13 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
14 does not apply to the guidelines or regulations adopted pursuant  
15 to this section.

16 *SEC. 4. Section 37012 of the Public Resources Code is*  
17 *amended to read:*

18 37012. (a) Each donee shall evaluate applications submitted  
19 to it and prepare a plan for the board that sets forth the donee's  
20 priorities for acquisition of property that qualifies under the  
21 program. Consistent with the criteria established for the program,  
22 each donee may use its own priority lists and procedures in  
23 determining which properties or types of properties shall be given  
24 priority.

25 (b) Each donee or the ~~board~~ agency may request that the  
26 applicant supply further information reasonably necessary to allow  
27 the donee or the ~~board~~ agency to evaluate the proposed donation.

28 (c) The department may accept contributions of money from  
29 any taxpayer to pay or reimburse the costs of appraisal, escrow,  
30 title, and other transaction costs associated with the contribution  
31 of any particular property or set of properties, including any  
32 environmental assessments required by the department, and the  
33 costs of preparing any necessary management plan for the property  
34 or set of properties.

35 (d) Prior to acquiring an easement or other interest in land  
36 pursuant to this division, a public hearing shall be held by the  
37 donee, if the donee is a public agency, or by the ~~board~~ agency if  
38 the donee is a designated nonprofit organization, in the local  
39 community. Notice shall be given by the donee or the ~~board~~ agency  
40 to the county board of supervisors of the affected county, adjacent

landowners, affected water districts, local municipalities, and other interested parties, as determined by the donee or the ~~board~~ agency.

(e) When submitting a donation of qualified property to the ~~board~~ agency for final approval, the donee shall provide the ~~board~~ agency with the fair market value of the property proposed for acceptance, based on appraisals that have been reviewed and approved by the Department of General Services.

*SEC. 5. Section 37013 of the Public Resources Code is amended to read:*

37013. The ~~board~~ agency shall provide a list to the Joint Legislative Budget Committee and the Franchise Tax Board, in the form and manner determined by the Franchise Tax Board, of the names, taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, a legal description of the donated property, and the total amount of the tax credit approved for each donation.

*SEC. 6. Section 37015 of the Public Resources Code is amended to read:*

37015. The ~~board~~ agency shall approve only contributions of properties that meet one or more of the following criteria:

(a) The property will help meet the goals of a habitat conservation plan, multispecies conservation plan, natural community conservation plan, or any other similar plan subsequently authorized by statute that is designed to benefit native species of plants, including, but not limited to, protecting forests, old growth trees, or oak woodlands, and animals and development. In proposing and approving the acceptance of contributed property pursuant to this subdivision, the recovery benefits for listed species, the habitat value of the property, the value of the property as a wildlife corridor, and similar habitat-related considerations shall be the criteria on which the acceptance is based.

(b) The property will provide corridors or reserves for native plants and wildlife that will help improve the recovery possibilities of listed species and increase the chances that the species will recover sufficiently to be eligible to be removed from the list, or will help avoid the listing of species pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), or protect

1 wetlands, waterfowl habitat, or river or stream corridors, or  
2 promote the biological viability of important California species.

3 (c) The property interest is a perpetual conservation easement  
4 over agricultural land, or is a permanent contribution of agricultural  
5 land, that is threatened by development and is located in an  
6 unincorporated area certified by the secretary to be zoned for  
7 agricultural use by the county. Property accepted pursuant to this  
8 subdivision shall be accepted pursuant to the California Farmland  
9 Conservancy Program Act established by Division 10.2  
10 (commencing with Section 10200), pursuant to the agricultural  
11 conservation program of the Coastal Conservancy, or pursuant to  
12 the Bay Area Conservancy Program established pursuant to Chapter  
13 4.5 (commencing with Section 31160) of Division 21.

14 (d) (1) The property interest is a water right, or land with an  
15 associated water right, and the contribution of the property will  
16 help improve the chances of recovery of a listed species, will  
17 reduce the likelihood that any species of fish or other aquatic  
18 organism will be listed pursuant to the California Endangered  
19 Species Act (Chapter 1.5 (commencing with Section 2050) of  
20 Division 3 of the Fish and Game ~~Code~~) *Code*) or the federal  
21 Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), will improve  
22 the protection of listed species, or will improve the viability and  
23 health of fish species of economic importance to the state. The  
24 donee receiving the water right, or land with an associated water  
25 right, shall ensure that it shall retain title to the water right, and  
26 that the water shall be used to fulfill the purposes for which the  
27 water right or land associated with a water right is being accepted.

28 (2) Any contribution of a water right that includes a change in  
29 the point of diversion, place of use, or purpose of use may be made  
30 only if the proposed change will not injure any legal user of the  
31 water involved and is made in accordance with either Chapter 10  
32 (commencing with Section 1700), or Chapter 10.5 (commencing  
33 with Section 1725), of Part 2 of Division 2 of the Water Code.

34 (e) The property will be used as a park or open space or will  
35 augment public access to or enjoyment of existing regional or local  
36 park, beach, or open-space facilities, or will preserve archaeological  
37 resources.

38 *SEC. 7. Section 37016 of the Public Resources Code is*  
39 *amended to read:*

1 37016. (a) The ~~board~~ agency shall grant approval of a proposed  
2 contribution of property under the program only upon a  
3 determination that:

4 (1) (A) The donation of property satisfies the requirements for  
5 a qualified contribution pursuant to Section 170 of Title 26 of the  
6 United States Code. If only a portion (either an undivided fractional  
7 interest in the entire property or one or more discrete parcels) of  
8 a proposed conveyance of property satisfies the requirements of  
9 Section 170 of Title 26 of the United States Code, or if the property  
10 is sold for less than fair market value, only that portion, or the  
11 amount representing the difference between the amount paid by  
12 the donee and the fair market value, shall be eligible for the tax  
13 credit, to the extent permitted by Section 170(h) of Title 26 of the  
14 United States Code. The ~~board~~ agency may segregate eligible and  
15 ineligible interests in property proposed to be contributed pursuant  
16 to this division. The donor shall receive no other valuable  
17 consideration for the donation of property subject to the tax credit.

18 (B) For purposes of this division, if the property is proposed to  
19 be donated to satisfy a condition imposed upon the donor by any  
20 lease, permit, license, certificate, or other entitlement for use issued  
21 by one or more public agencies, including, but not limited to, the  
22 mitigation of significant effects on the environment of a project  
23 pursuant to an approved environmental impact report or mitigated  
24 negative declaration required pursuant to the California  
25 Environmental Quality Act (Division 13 (commencing with Section  
26 21000)), that property shall not qualify for the credit provided in  
27 Section 17053.30 or 23630 of the Revenue and Taxation Code.

28 (2) There has been no release or threatened release of a  
29 hazardous material on the property, unless all of the following  
30 occur:

31 (i) A final remedy in response to the release has been approved  
32 by the Department of Toxic Substances Control pursuant to Chapter  
33 6.5 (commencing with Section 25100) of, Chapter 6.8  
34 (commencing with Section 25300) of, or Chapter 6.85  
35 (commencing with Section 25396) of, Division 20 of the Health  
36 and Safety Code, or the appropriate California regional water  
37 quality control board pursuant to Chapter 6.7 (commencing with  
38 Section 25280) of Division 20 of the Health and Safety Code.

39 (ii) The donor or donee have agreed to implement the final  
40 remedy approved pursuant to clause (i).

1 (iii) The donor or donee have agreed to fund and have made  
2 adequate funding available to pay for the response action, as  
3 defined by Section 25323.3 of the Health and Safety Code.

4 (b) Notwithstanding paragraph (2) of subdivision (a), a donation  
5 of property containing hazardous materials may be accepted under  
6 the program without satisfying the requirements of paragraph (2)  
7 of subdivision (a) if the donee determines, based on written  
8 findings from the Department of Toxic Substances Control and  
9 the California regional water quality control board with jurisdiction  
10 over the property, that the hazardous materials present will pose  
11 no substantial risk to human health or the environment and no  
12 substantial risk of liability on the donee under the conditions under  
13 which the property will be used. The Department of Toxic  
14 Substances Control and the California regional water quality  
15 control board with jurisdiction over the property shall carry out  
16 their normal due diligence when developing the written findings  
17 that will be the basis for the written determination regarding the  
18 presence and risk of toxic materials on the property by the  
19 Department of Toxic Substances Control or the regional board,  
20 whichever is applicable. As used in this subdivision, “hazardous  
21 materials” has the same meaning as contained in subdivision (d)  
22 of Section 25260 of the Health and Safety Code.

23 *SEC. 8. Section 37021 of the Public Resources Code is*  
24 *amended to read:*

25 37021. (a) If any property approved for acceptance pursuant  
26 to this division is later transferred by the donee, the use of the  
27 property shall be restricted by deed to the conservation purposes  
28 for which the property was contributed pursuant to the program.  
29 If the ~~board~~ agency determines that the conservation purposes for  
30 which the property was contributed can no longer be achieved due  
31 to significantly changed circumstances beyond the control of the  
32 donee that accepted the property, the proceeds of the sale shall be  
33 used by the donee that accepted the property to acquire land in  
34 California of equal or greater value and comparable public  
35 resources values, as determined by the ~~board~~ agency. The land  
36 acquired shall meet the criteria of Section 37015. Nothing in this  
37 division prohibits the transfer of donated property to a nonprofit  
38 organization that is qualified to manage the property for the  
39 purposes intended by this division, if the terms of this section are  
40 met. Any local government or nonprofit organization seeking to



1 sell land pursuant to this subdivision shall first obtain the approval  
2 of the ~~board~~ agency.

3 (b) Other than as provided by subdivision (a), property approved  
4 for acceptance pursuant to this division shall be used only for  
5 purposes consistent with Section 37015.

6 (c) (1) If any unauthorized use is made of the property after the  
7 property is donated to a local government or nonprofit organization  
8 pursuant to this program, the local government or nonprofit  
9 organization shall seek to terminate the unauthorized use and  
10 restore the conservation benefits for which the property was  
11 contributed. If the ~~board~~ agency determines that the unauthorized  
12 use has not been terminated and the conservation benefits fully  
13 restored within a reasonable period of time, the fee title owner of  
14 the property shall pay to the state the greater of the following:

15 (A) The fair market value of the property based on appraisals  
16 when accepted by the ~~board~~ agency.

17 (B) The fair market value of the property based on appraisals  
18 at the time of and based on the unauthorized use of the property.

19 (2) The department that is the donee or the ~~board~~ agency may  
20 seek injunctive relief to prevent the unauthorized use of the  
21 property, or may assume ownership or management of the property  
22 to assure that it is used in the manner originally authorized.

23 (d) The ~~board~~ agency shall develop a process to monitor the  
24 uses of any land that a local government or nonprofit organization  
25 receives pursuant to this division in order to ensure those uses are  
26 in conformance with the purposes for which the property is  
27 accepted.

28 *SEC. 9. Section 37034 of the Public Resources Code is*  
29 *amended to read:*

30 37034. (a) (1) If a department determines that property is  
31 available for acquisition by donation, and that the acquisition of  
32 the property would comply with the requirements of an applicable  
33 bond provision specified in subdivision (c) of Section 37032 and  
34 any applicable guidelines developed for that bond provision by  
35 the administering agency, and the department believes the  
36 acquisition of the property would comply with the requirements  
37 of this division, the department may request the prospective donor  
38 of the property to submit an application pursuant to Section 37010.  
39 If the prospective donor agrees to submit that application, the

1 department may apply for approval of the donation pursuant to the  
2 requirements of this division.

3 (2) If a local government determines that property is available  
4 for acquisition by donation, and that the acquisition of the property  
5 would comply with the requirements of an applicable bond  
6 provision specified in subdivision (c) of Section 37032 and any  
7 applicable guidelines developed for that bond provision by the  
8 administering agency, and the local government believes that the  
9 acquisition of the property would comply with the requirements  
10 of this division, the local government may request the department  
11 that allocated to it the relevant bond funds to determine whether  
12 it agrees with the local government's determinations and beliefs  
13 made pursuant to this paragraph. If the department agrees with the  
14 local government and gives its approval for the acquisition with  
15 bond funds that it has allocated to the local government, the local  
16 government may request the prospective donor of the property to  
17 submit an application pursuant to Section 37010. If the prospective  
18 donor agrees to submit the application, the local government may  
19 apply for approval of the donation pursuant to the requirements  
20 of this division.

21 (3) In addition to the requirements of Section 37011, the  
22 application shall include, and shall not be accepted if it does not  
23 include, a signed authorization by the donor, in a form and manner  
24 mutually agreeable to the ~~board~~ agency and the Franchise Tax  
25 Board, for the disclosure of the information necessary to make the  
26 payment as required by subdivision (b). For purposes of subdivision  
27 (b) of Section 1798.24 of the Civil Code, the signed authorization  
28 shall be the donor's voluntary consent to the disclosure of the  
29 information.

30 (b) (1) If the ~~board~~ agency gives approval, the department or  
31 local government may acquire the property pursuant to this  
32 division. Through the process outlined in this section, the  
33 department shall reimburse the General Fund for the tax credit  
34 claimed pursuant to this chapter under Section 17053.30 or 23630  
35 of the Revenue and Taxation Code by transferring bond funds  
36 identified under subdivision (c) of Section 37032 to the Natural  
37 Heritage Preservation Tax Credit Reimbursement Account, on the  
38 basis of information provided to the department under Section  
39 37040 regarding credit claimed for a qualified contribution under

1 Section 17053.30 or 23630 of the Revenue and Taxation Code in  
2 that tax year.

3 (2) If a local government applies directly to the ~~board~~ agency  
4 for acceptance of a qualified donation, the ~~board~~ agency may  
5 provide conditional approval for the local government to acquire  
6 the property pursuant to this division. Through the process outlined  
7 in this section, the local government shall reimburse the General  
8 Fund for the tax credit claimed pursuant to this chapter under  
9 Section 17053.30 or 23630 of the Revenue and Taxation Code by  
10 transferring funds in the full amount of the approved tax credit to  
11 the board for deposit into the Natural Heritage Preservation Tax  
12 Credit Reimbursement Account.

13 (3) (A) Upon approval by the ~~board~~ agency, and prior to the  
14 time the department, local government, or designated nonprofit  
15 organization receives the property, the department shall encumber  
16 bond funds identified under subdivision (c) of Section 37032 in  
17 an amount necessary to pay for the tax credit as provided in Section  
18 17053.30 or 23630, as applicable, of the Revenue and Taxation  
19 Code.

20 (B) If a local government applies directly to the ~~board~~ agency  
21 for acceptance of a qualified donation, and the ~~board~~ agency  
22 provides conditional approval of the qualified donation, the local  
23 government shall have 60 days to transfer to the ~~board~~ agency the  
24 full amount of funds necessary to reimburse the General Fund.  
25 Upon receipt of the funds necessary to reimburse the General Fund,  
26 the ~~board~~ agency shall provide the donor and the local government  
27 with a notice of final approval of the tax credit. A tax credit is not  
28 approved until such time as the donor and local government receive  
29 a final notification from the ~~board~~ agency that sufficient funds  
30 have been received to reimburse the General Fund for the loss of  
31 revenue associated with the tax credit.

32 (C) The acquisition agreement or any other document that  
33 clearly delineates the commitment pursuant to this division shall  
34 be the only documentation required for the department to encumber  
35 the bond funds as required by this paragraph.

36 (D) Except as prohibited by the relevant bond act,  
37 notwithstanding Section 13340 of the Government Code or any  
38 other provision of law, the encumbrance shall be available without  
39 regard to fiscal years to allow payments to the Natural Heritage  
40 Preservation Tax Credit Reimbursement Account for the tax credit

1 due the donor of the property under Section 17053.30 or 23630,  
2 as applicable, of the Revenue and Taxation Code.

3 (4) The Franchise Tax Board shall provide the ~~board~~ agency  
4 information pursuant to subdivision (a) of Section 19560 of the  
5 Revenue and Taxation Code on tax credits claimed. The  
6 information shall include the tax year for which the credit was  
7 claimed. The ~~board~~ agency shall provide the information required  
8 by Section 37040 to the relevant department. Upon notification  
9 that a qualified tax credit has been claimed, the department,  
10 pursuant to paragraph (1), shall transfer bond funds in the amount  
11 of the tax credit for that tax year to the Natural Heritage  
12 Preservation Tax Credit Reimbursement Account within 60 days  
13 of receipt of the notification. The department shall notify the ~~board~~  
14 agency of this transfer.

15 (5) The ~~board~~ agency shall forward the information it receives  
16 pursuant to paragraph (4) to the Controller and the Department of  
17 Finance, which shall use the information for the purpose of  
18 attributing the budgetary impact of the credit and bond fund transfer  
19 to the appropriate tax and fiscal year.

20 *SEC. 10. Section 37038 of the Public Resources Code is*  
21 *amended to read:*

22 37038. If the ~~board~~ agency is the department that receives  
23 moneys pursuant to any of the bond provisions listed in subdivision  
24 (c) of Section 37032 and the ~~board~~ agency wishes to use those  
25 bond funds to acquire property pursuant to this division using those  
26 bond funds, the ~~board~~ agency shall make separate determinations  
27 regarding whether the acquisition of that property would comply  
28 with the purpose of the applicable bond provision and any  
29 applicable guidelines developed for that bond provision by the  
30 administering agency, and whether the acquisition would comply  
31 with the requirements of this division.

32 *SEC. 11. Section 37040 of the Public Resources Code is*  
33 *amended to read:*

34 37040. (a) The ~~board~~ agency shall notify the Controller, the  
35 Treasurer, and the relevant department of the information listed  
36 in subdivision (b) after the ~~board~~ agency receives notification from  
37 the Franchise Tax Board pursuant to Section 19560 of the Revenue  
38 and Taxation Code that a person is claiming a tax credit under this  
39 chapter.

1 (b) The ~~board~~ agency shall provide all of the following  
2 information:

3 (1) The bond fund and specific provision of the bond act under  
4 which the credit is being claimed.

5 (2) The project name, appropriation under which the credit was  
6 encumbered, and, if applicable, the related local government.

7 (3) The department that will transfer the appropriate bond funds  
8 to the Natural Heritage Preservation Tax Credit Reimbursement  
9 Account.

10 (4) The amount of the tax credit for that tax year.

11 ~~SEC. 2.~~

12 *SEC. 12.* Section 17053.30 of the Revenue and Taxation Code  
13 is amended to read:

14 17053.30. (a) There shall be allowed as a credit against the  
15 “net tax,” as defined in Section 17039, an amount equal to 55  
16 percent of the fair market value of any qualified contribution made  
17 on or after January 1, 2000, and not later than June 30, 2008, and  
18 on or after January 1, 2010, and not later than June 30, 2015, by  
19 the taxpayer during the taxable year to the state, any local  
20 government, or any designated nonprofit organization, pursuant  
21 to Division 28 (commencing with Section 37000) of the Public  
22 Resources Code.

23 (b) For purposes of this section, “qualified contribution” means  
24 a contribution of property, as defined in Section 37002 of the Public  
25 Resources Code, that has been approved for acceptance by the  
26 ~~Wildlife Conservation Board~~ *Natural Resources Agency* pursuant  
27 to Division 28 (commencing with Section 37000) of the Public  
28 Resources Code.

29 (c) In the case of any pass-thru entity, the fair market value of  
30 any qualified contribution approved for acceptance under Division  
31 28 (commencing with Section 37000) of the Public Resources  
32 Code shall be passed through to the partners or shareholders of  
33 the pass-thru entity in accordance with their interest in the pass-thru  
34 entity as of the date of the qualified contribution. For purposes of  
35 this subdivision, the term “pass-thru entity” means any partnership,  
36 “S” corporation, or limited liability company treated as a  
37 partnership.

38 (d) If the credit allowed by this section exceeds the “net tax,”  
39 the excess may be carried over to reduce the “net tax” in the

1 following year, and the succeeding seven years if necessary, until  
2 the credit is exhausted.

3 (e) This credit shall be in lieu of any other credit or deduction  
4 which the taxpayer may otherwise claim pursuant to this part with  
5 respect to the property or any interest therein that is contributed.

6 (f) (1) Notwithstanding any other law, for each taxable year  
7 beginning on or after January 1, 2013, a taxpayer may transfer any  
8 credit, *in whole or in part*, allowed under this section to an  
9 unrelated party.

10 ~~(2) The taxpayer shall report to the Wildlife Conservation Board~~  
11 ~~prior to the transfer of the credit, in the form and manner specified~~  
12 ~~by the Wildlife Conservation Board, all required information~~  
13 ~~regarding the transfer of the credit, including the social security~~  
14 ~~or other taxpayer identification number of the unrelated party to~~  
15 ~~whom the credit has been transferred and the face amount of the~~  
16 ~~credit transferred, for the approval of the Wildlife Conservation~~  
17 ~~Board.~~

18 ~~(3) Upon approval of the transfer, the Wildlife Conservation~~  
19 ~~Board shall provide a certificate to the taxpayer evidencing the~~  
20 ~~approval, in the form and manner specified by the Franchise Tax~~  
21 ~~Board, that shall include all required information regarding the~~  
22 ~~credit.~~

23 *(2) At the time the project is under consideration by a*  
24 *department or agency, the donor shall indicate to the department*  
25 *or the Natural Resources Agency, in the form and manner specified*  
26 *by the department or the Natural Resources Agency, the donor's*  
27 *interest in transferring the credit, in whole or in part, to an*  
28 *unrelated party.*

29 *(3) On and after January 1, 2013, the Natural Resources Agency*  
30 *shall maintain a list of parties that are interested in acquiring a*  
31 *tax credit pursuant to this subdivision. The Natural Resources*  
32 *Agency shall collect all required information necessary for the*  
33 *transfer of the credit, including the social security or other*  
34 *taxpayer identification number of the unrelated party to whom a*  
35 *credit could be transferred and the amount of the tax credit the*  
36 *party is interested in acquiring.*

37 *(4) As part of the approval process, the Natural Resources*  
38 *Agency shall match projects with donors interested in transferring*  
39 *credits with parties interested in acquiring a tax credit. All parties*  
40 *shall agree to any proposed transfer of a tax credit.*

(5) *The Natural Resources agency shall establish procedures as needed, including, but not limited to, the use of an escrow account, for the tax credit to be purchased by the acquiring entity, the donor to receive the payment for the value of the transferred tax credit at the time of project closing, and for a certificate evidencing the tax credit to be given to the unrelated party. The Natural Resources Agency shall issue a certificate, in the form and manner specified by the Franchise Tax Board, that shall include all required information regarding the credit.*

(6) *For purposes of this subdivision, “department” has the same meaning as defined in subdivision (d) of Section 37002 of the Public Resources Code.*

~~SEC. 3.~~

*SEC. 13.* Section 23630 of the Revenue and Taxation Code is amended to read:

23630. (a) There shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount equal to 55 percent of the fair market value of any qualified contribution made on or after January 1, 2000, and not later than June 30, 2008, and on or after January 1, 2010, and not later than June 30, 2015, by the taxpayer during the taxable year to the state, any local government, or any designated nonprofit organization, pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(b) For purposes of this section, “qualified contribution” means a contribution of property, as defined in Section 37002 of the Public Resources Code, that has been approved for acceptance by the ~~Wildlife Conservation Board~~ *Natural Resources Agency* pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(c) In the case of any pass-thru entity, the fair market value of any qualified contribution approved for acceptance under Division 28 (commencing with Section 37000) of the Public Resources Code shall be passed through to the partners or shareholders of the pass-thru entity in accordance with their interest in the pass-thru entity as of the date of the qualified contribution. For purposes of this subdivision, the term “pass-thru entity” means any partnership or “S” corporation.

(d) If the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following

1 year, and the succeeding seven years if necessary, until the credit  
2 is exhausted.

3 (e) This credit shall be in lieu of any other credit or deduction  
4 that the taxpayer may otherwise claim pursuant to this part with  
5 respect to the property or any interest therein that is contributed.

6 (f) (1) Notwithstanding any other law, for each taxable year  
7 beginning on or after January 1, 2013, a taxpayer may transfer any  
8 credit, *in whole or in part*, allowed under this section to an  
9 unrelated party.

10 ~~(2) The taxpayer shall report to the Wildlife Conservation Board~~  
11 ~~prior to the transfer of the credit, in the form and manner specified~~  
12 ~~by the Wildlife Conservation Board, all required information~~  
13 ~~regarding the transfer of the credit, including the social security~~  
14 ~~or other taxpayer identification number of the unrelated party to~~  
15 ~~whom the credit has been transferred and the face amount of the~~  
16 ~~credit transferred, for the approval of the Wildlife Conservation~~  
17 ~~Board.~~

18 ~~(3) Upon approval of the transfer, the Wildlife Conservation~~  
19 ~~Board shall provide a certificate to the taxpayer evidencing the~~  
20 ~~approval, in the form and manner specified by the Franchise Tax~~  
21 ~~Board, that shall include all required information regarding the~~  
22 ~~credit.~~

23 *(2) At the time the project is under consideration by a*  
24 *department or agency, the donor shall indicate to the department*  
25 *or the Natural Resources Agency, in the form and manner specified*  
26 *by the department or the Natural Resources Agency, the donor's*  
27 *interest in transferring the credit, in whole or in part, to an*  
28 *unrelated party.*

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30 *shall maintain a list of parties that are interested in acquiring a*  
31 *tax credit pursuant to this subdivision. The Natural Resources*  
32 *Agency shall collect all required information necessary for the*  
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2 *as needed, including, but not limited to, the use of an escrow*  
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6 *evidencing the tax credit to be given to the unrelated party. The*  
7 *Natural Resources Agency shall issue a certificate, in the form*  
8 *and manner specified by the Franchise Tax Board, that shall*  
9 *include all required information regarding the credit.*

10    (6) *For purposes of this subdivision, “department” has the same*  
11 *meaning as defined in subdivision (d) of Section 37002 of the*  
12 *Public Resources Code.*

13    ~~SEC. 4.~~

14    *SEC. 14.* This act provides for a tax levy within the meaning  
15 of Article IV of the Constitution and shall go into immediate effect.